

AMENDMENTS TO THE CITY OF ANGLETON'S PARK DEDICATION REQUIREMENTS; SEC. 23-20

A. Purpose.

This Article is adopted by the Angleton City Council in accordance with the home rule powers of the City of Angleton granted under the Texas Constitution, the laws of the State of Texas including but not limited to Texas Local Government Code Chapter 212, as may be amended. The City of Angleton recognizes that public park and recreation areas are valuable assets that advance the public's health, safety and welfare. New residential development in the city creates the need for additional parks and recreation resources because of the new population. Parkland dedication and development fees are recognized as a fair, reasonable and uniform method of financing these assets that does not impose an unfair burden on new or existing residential developments. The intent is to require new development to pay its proportionate costs that are associated with providing new or expanded parks and conservation areas, so they are borne by the new homeowners who are responsible for creating the additional demand.

B. Applicability.

- (a) This Section applies to a landowner or developer who develops land for residential use located within the City and its ETJ.
- (b) Non-residential use is exempt.
- (c) This Section does not apply to activities involving the remodeling, rehabilitation or other improvements to an existing residential structure, or to the rebuilding of a damaged structure where no additional residential units are created.
- (d) If a dedication requirement was paid or encumbered prior to the amendment of this Section, then subsequent development for the subject tract the dedication requirement applies to may be subject to vesting as set forth in Chapter 245 Texas Local Government Code. However, if there is an increase in the number of dwelling units on the site to be developed from what was originally proposed, then there shall be an additional proportional increase in the dedication requirement.

C. General Requirements.

- (a) The City Manager, or designee, shall administer this Chapter, with certain review, recommendation and approval authorities being assigned to the City Council or Planning and Zoning Commission, and various City departments as specified in the Code of Ordinances.
- (b) As a condition of subdivision development, a developer of residential property shall be required to dedicate land for parks, or pay a fee in lieu of dedication, or a City-Council approved alternative; or a combination of both, only upon recommendation by the Director of Parks and Recreation. In addition to the land dedication, a developer of residential property shall pay a park development fee to be used to provide improvements as typically found in other Angleton city parks that is needed to make dedicated land into a functional park.
- (c) The required land dedications and schedules of fees are attached hereto as Appendix "A".
They are incorporated and made a part of this Section for all purposes.

D. Park Land Dedication Procedures

- (a) When considering dedicating land for a park, the developer shall schedule a pre-development meeting to evaluate the suitability of the land for park land dedication or the necessary fees in lieu of land dedication. The City's parkland dedication requirements and minimum park standards are shown in Appendix "B". Parks and Recreation Department ("PARD") may request a site visit as a part of its consideration process and determination. The developer shall declare if fees in lieu of park land and park improvement fees, or park land dedication and park improvements will be pursued in conjunction with the preliminary plat submittal. In the event that park land dedication and park improvements are pursued, then the developer will enter into an agreement with the City, and will provide the following information:
 - 1. Lot dimensions or metes and bounds acreage of park land to be dedicated;
 - 2. Total acreage of floodplain, as well as land located outside floodplain;
 - 3. Tree survey results;
 - 4. Slope analysis results;
 - 5. Environmental survey results identifying critical environmental features, such as but not limited to species, habitat, and water features;
 - 6. Overall site plan with proposed park improvement specifications.
 - 7. Signed and stamped park improvement plans prepared and designed by a Texas Licensed Landscape Architect.
- (b) Prior to issuance of a development permit and final plat recordation, civil plans prepared by a Texas Licensed Landscape Architect, or a properly licensed design specialist approved by the City including park land dedication and park improvement specifications, must be reviewed and approved by the City Engineer, Parks and Recreation Director, Planning and Zoning Commission, and City Council.
- (c) The total amount of land dedicated for the development of a public park shall be dedicated:
 - 1. In fee simple by filed written instrument of conveyance or deed and the developer is responsible for the expense of the deed preparation and filing fees;
 - 2. Prior to recordation of the final plat;
 - 3. For a phased development the entire park shall be platted concurrently with the plat of the first phase of the development. If it is intended to phase the park dedication or park improvements to coincide with the development phasing, the developer may provide the City with financial security against the future dedication by providing a bond, irrevocable letter of credit, or other alternative financial guarantee such as a cash deposit in the amount equal to the number of acres of park land required, and in a form acceptable to the City. The amount of the financial guarantee shall be the amount of the fee in lieu of land dedication as set forth in Appendix "A" plus an additional amount equivalent to ten percent (10%) contingency. The financial guarantee will be released to the developer, without interest, when the required park land has been properly dedicated. The developer or depositor must request such refund within one year of entitlement, in writing, or such right shall be barred and the financial guarantee will not be refunded. If the full land dedication does not occur within five years of completion of the initial phase of the overall development, the financial guarantee (escrowed funds) plus interest shall be forfeited by the depositor or developer, and the funds shall become the property of the City.

E. Park Land Acceptance Criteria.

(1). General Guidelines.

Any park land dedicated to the City pursuant to the terms, conditions and requirements under this Section must be suitable for park and recreation uses. The following guidelines should be met:

- (a) **Encumbrances.** Free and clear of any and all liens and encumbrances that interfere with the use or ownership of the land for park purposes. The City's representatives shall make onsite inspections of the property for the purposes of determining site suitability and identification of any visual hazards or impediments to park development and use.
- (b) **Environmental Assessment.** An environmental site assessment, without any recommendations for remediation or clean-up, certified to the City not earlier than one hundred twenty (120) days prior to the closing date or date of final purchase of land.
- (c) **Utilities.** The developer is responsible for certain minimum utilities as listed below and utilities should be constructed at the right-of-way. The appropriate city department which may include the City Engineer, Public Works Director, or Director of Parks and Recreation, or designee, as necessary, will be required to approve such location prior to final approval and release of fiscal requirements of said subdivision. Upon review, a backflow preventer for water utilities will be required for all pertinent utility applications requiring one where contaminants could potentially enter the public water supply through pressure loss and back siphonage or through cross-connections; such as may occur with irrigation lines.
 - 1. A metered water supply located 12 feet behind the curb in accordance with the size of the park; and
 - 2. A six-inch sewer stub, or in accordance with the size of the park, ten feet behind the curb final determination of size and location to be determined by the City Engineer and Public Works Department.
- (d) If soils have been disturbed or displaced, they shall be restored, and the soil shall be stabilized by vegetative cover by the developer prior to dedication to the city.
- (e) Parks shall provide easy public access and be open to public view to benefit area development, enhance the visual character of the City, protect public safety, and minimize conflict with adjacent land use.
- (f) Park and conservation land may provide a connection to existing or future City park land. The land available for dedication may be an opportunity to expand an existing or future city park or trail.
- (g) A current title report must be provided with the land dedication.
- (h) The property owner shall pay all taxes or assessments owed on the property up to the date of acceptance of the dedication by the City. A tax certificate from the County Tax Assessor shall be submitted with the dedication or plat.

(2). Land Requirements.

- (a) Land parcels that are unsuitable for development are typically unsuitable for parks. Park sites shall be selected prior to a subdivision being platted and acquired as a part of the development process.
- (b) The City recognizes that maintaining many small parks is difficult and costly; therefore, the City generally will not accept an area of less than five (5) acres for park dedication.
- (c) Sites shall be located in a manner that serve the greatest number of users and shall minimize users having to cross arterial roadways to access parks.
- (d) Where feasible, sites shall be located adjacent to schools to encourage shared facilities and joint development of new sites.
- (e) Parks shall have well-drained and suitable soils and level topography. Sites shall not have slope or unusual topography which would render the land unusable for recreational activities.
- (f) Parks must be adjacent to a street for ease of pedestrian use, bike use, or parking accommodations.
- (g) No more than two (2) sides of the park may be adjacent to the rear of or behind residences.
- (h) Parks must include visible, attractive and suitable means of ingress and egress proportionate to the size and amenities in the park.
- (i) The site shall not be encumbered by overhead utility lines or easements which might limit the opportunity for park and conservation development.
- (j) Sites with existing trees or other scenic elements are preferred and may be reviewed by the City, or a contracted Urban Forester, to make recommendations, as it relates to Heritage Tree Protection provisions found in the Code of Ordinances.
- (k) Rare, unique, endangered, historic or other significant natural areas shall be given a high priority for dedication pursuant to this Section.
- (l) The City shall not generally accept land within floodplain and floodway dedicated areas as part of the dedication, but at its discretion may accept such land as a donation.
- (m) Detention or retention areas which are required as part of the stormwater management standards generally shall not qualify as parkland dedication but may be accepted as donations in addition to the required dedication.

- (3). Minimum Park Standards. Facilities and improvements provided by a developer shall be constructed on lands dedicated as public park land. All plans and specifications shall meet or exceed the City's Minimum Park Standards as set forth in Appendix "B" at the time of the submission and shall be approved by the PARD.

F. Fee in Lieu of Park Land.

The City shall require that a fee be paid in lieu of land dedication in amounts as set forth in Appendix "A" for, either, all, or some of a required park land dedication. Such fees shall be due prior to the final plat recordation for a single-phase development, or prior to the issuance of any building permits for multi-phased development.

The amount of the fee in lieu will be based on the average fair market value per acre of the land which is being subdivided at the time of the preliminary plat approval. The fair market value shall be established by the most recent appraisal of all or part of the property made by the Brazoria County Appraisal District. At the City's discretion, the City may commission, at the developer's expense, an independent appraisal of the land by a third party and adjust the amount of assessed value based on any difference between it and the appraisal district's valuation.

G. Park Development Fee.

In addition to the park land dedication requirements, park development fees shall be paid by the owner or developer and must be sufficient to develop public parks that satisfy the City of Angleton's standards. Any Park Development Fees are supplementary to, and not in substitution of, the land dedication requirement, or payment of the fee in lieu of land dedication requirement. The amount of development fees assessed to a development and the basis for the calculation is set forth in Appendix "A". The park development fees shall be processed simultaneously with the park land dedication requirements, and for all phases of the development.

H. Credit for Private Park Amenities

- (a) Up to fifty percent (50%) of the total fee in lieu, and the park development fees required by this Section to be paid by a developer may be eligible for reimbursement if the developer provides private park amenities on the site. The remaining 50% is retained for deposit in the City's park land dedication fund for the purpose of defraying the financial burden that new residential units impose on the existing public park system in Angleton, beyond the immediate development in which the residential units are located.
- (b) Water features exceeding two thousand five hundred (2,500) square feet will not be considered as park facilities that qualify for credit. However, ten percent of lakes and nature reserves or land, which is generally undeveloped and unsuitable for organized recreational activities without substantial development effort, but otherwise provides desirable aesthetic qualities, such as wetlands and other wooded areas, will be considered by the City and may qualify for private parkland (0.10:1 ratio) up to 50 percent credit. This credit must be approved by the City. Dry bottom detention ponds do not satisfy the definition of a lake or nature reserve.
- (c) Private facilities eligible for credit are those outdoor amenities typically found in Angleton's public parks, which will substitute for the improvements otherwise funded by a dedication or development fee to meet the outdoor recreation needs of residents. The outdoor amenities might include, but are not limited to, park land, playground equipment and shade structures, barbecue equipment, a "pick-up" basketball or volleyball court, lighting, and walking and jogging trails. Indoor recreation facilities provided by a developer do not qualify for credit.
- (d) The amount of credit shall be based on actual out-of-pocket dollar costs that the developer incurred

in providing the outdoor recreation amenities:

1. The developer is required to submit all invoices and checks paid toward the construction of the private amenities upon request by the City.
 2. The developer shall allow access and PARD staff shall conduct a site visit to verify the private park improvements.
- (e) Yards, court areas, setbacks and other open areas required to be maintained as set forth in the Code of Ordinances of the City of Angleton shall not be included in the credit computation.
- (f) Private ownership and maintenance of the private amenities shall be provided for in perpetuity by recorded agreement, covenants or restrictions that run with the land which cannot be eliminated without the consent of the City.
- (g) Use of the private park is restricted for park and recreation purposes by recorded covenant, which runs with the land in favor of future owners of the property and which cannot be defeated or eliminated without the written consent of the City.
- (h) Facilities must be similar or comparable to what would be required to meet minimum public park standards and recreational needs as set forth in Section E of this Section, and other federal, state and local laws.
- (i) The design of private park amenities must be reviewed and approved by the Director of Parks and Recreation prior to the platting of the first unit.
- (j) All private amenities should be constructed no later than prior to the application for the final unit building permit. For a phased property, it should be completed by the final unit of the first phase.
- (k) The restrictive covenants shall provide that, in the event that any private owner of parkland fails to maintain same according to the standards of the city, the Parks and Recreation Director and the City may enter the parks and open space to maintain same. The cost of such maintenance shall be charged to those persons having the primary responsibility for maintenance of the parks and open space, and the City will have the right to seek reimbursement.

I. Reimbursement for City Acquired Park Land.

The City may acquire land for parks in advance of actual or potential development. If the City acquires park land in this manner, then the City may require subsequent dedications to be fee in lieu of land only. They will serve to reimburse the City for the cost(s) of acquisition.

J. Appeal Process.

The property owner, developer, or applicant may appeal decisions relating to this Section to the City Council. The burden of proof is on the appellant to demonstrate that the decision was incorrect. The appellant must file a notice of appeal with the Director within thirty (30) days following the determination by the Director. Filing an appeal shall not stay collection of the fee due. If the notice of appeal is accompanied by a payment in an amount equal to the fee due as calculated by the City, the building permit application shall be processed. No building permit application will be processed without payment. Any decision made by PARD may only be appealed in writing through the City Manager, then to the City Council.

and must be appealed within ten (10) working days.

K. Use of Park Fees.

- (a) Funds shall not be used for employee wages and equipment associated with operation and maintenance of parks.
- (b) The park land dedication fund shall not be used for city staff overhead expenses. Indirect costs reasonably incurred in connection with park land acquisition and development are limited to a maximum of ten (10) percent of total acquisition or development costs.
- (c) All park land dedication and park development fees will be deposited in a separate fund. Funds shall be used solely for the acquisition or leasing of park land and the development, improvement, or enhancement of new and existing parks. All expenditures shall be administered in accordance with the purchasing requirements of the City, as amended.

L. Review and Indexing of Fees

- (a) The City shall review the fees established and the amount of park land dedication required in this Section at least once every five (5) years. Failure to review by the City Council shall not invalidate this ordinance.
- (b) The fee-in-lieu and park improvement fees shall be automatically updated annually as part of the annual budgeting process unless otherwise authorized by the City Council. The update shall reflect the indexing shown in the U.S. Department of Labor Statistics Consumer Price Index for the Houston-The Woodlands-Sugar Land Statistical Area which includes Brazoria County.

M. Right to Refund.

The City shall account for all fees in lieu of land and all development fees paid under this Section with reference to the individual plat(s) involved. Any fees paid for such purposes must be expended by the City within ten (10) years from the date received by the City for acquisition and development of park areas as required herein. Such funds shall be considered to be spent on a first-in, first-out basis. If not so expended, the landowners of the property on the expiration of such period shall be entitled to a prorated share of such sum without interest, computed on a square footage of area basis. The owners of such property must request such refund within one (1) year of entitlement, in writing. Failure to timely submit the required application for refund shall constitute an absolute waiver of any right to the refund.

N. Severability.

If any provision of this Section is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this Section, which can be implemented without the invalid provisions and, to this end, the provisions of this Section are declared to be severable. The City Council hereby declares that it would have adopted each and every provision and portion thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would subsequently be declared invalid or unconstitutional.

APPENDIX A

Angleton Notation Parkland Dedication Calculation Land Component.	
Total city park acreage:	229.7 acres
City Population:	19,875
Average occupancy per dwelling unit (Census data):	2.57
Number of Dwelling units: $(19,875/2.57)$	7,734
Dwelling units per acre of parks: $(7,734/229.7 \text{ acres})$	33.7
Assume market value of an acre of land for the new development is \$20,000.	
Fee in lieu of dedication of land for each dwelling unit in the new development would be:	
\$20,000/33.7: <u>\$593</u>	
Park Development Component. Cost per Residential Unit for Developed Parks.	
Estimated cost of developing Lakeside Park:	\$3,000,000
Lakeside Park acres:	44.6 acres
Park development cost per acre $(\$3,000,000/44.6)$:	\$67,265
Dwelling units per acre of parks:	33.7
Fee per dwelling unit $(\$67,265/33.7)$:	<u>\$1,996</u>
Park Development Component. Cost per Residential Unit for Passive/Undeveloped /Conservation Parks.	
Based on three components of Lakeside Park cost:	
Grading, Drainage and Utilities:	\$232,540
Lighting and Electrical:	\$107,000
Softscape:	\$351,877
	\$691,417
Development Cost per acre $(\$691,417/44.6)$:	\$15,502
Fee per dwelling unit $(\$15,502/33.7)$	\$460
Park Development Fee per Dwelling Unit Based on the Ratio of Developed/Undeveloped Parks in Angleton:	
Developed Parks $(\$1,996*177.3 \text{ acres})$ + Undeveloped Parks $(\$460*52.4 \text{ acres})/229.7$	
$(\$353,890 + \$24,104)/229.7$	\$1,646
Total Parkland Dedication Fee per residential unit: $(\\$593 + \\$1,646) =$	\$2,339

APPENDIX B

Minimum Park Standards

- A. Parks shall be designed and installed to meet standards approved by the Director of Parks and Recreation, in accordance with related federal, national, state or local codes including, but not limited to, the following:
 - a. International Play Equipment Manufacturer's Association (IPEMA);
 - b. Consumer Product Safety Commission (CPSC) Handbook for Public Safety;
 - c. American Society for Testing and Materials (ASTM and ASTM F08);
 - d. Accessibility Standards for Play Areas through the ADA Accessibility Guidelines (ADAAG);
 - e. Illuminating Engineering Society of North American (IESNA RP-6-01); and
 - f. Sports Turf Management Association (STMA).
- B. Paved frontage with curbs and gutters for all required street frontages abutting the outside perimeter of the parkland;
- C. Installing signage designating the area as parkland shall be supplied by the owner or developer and shall be designed and installed according to the specifications outlined in the City's Gateway Master Plan or otherwise specified by the PARD;
- D. Minimally a four-foot-wide concrete sidewalk installed around play spaces and along all street frontage of the park. Trails designed and installed within the park shall consist of ten-foot-wide concrete trails for primary pathways and six-foot-wide concrete trails for secondary pathways, and all improvements will be reviewed by a Texas Registered Accessibility Specialist and approved for compliance with the American Disabilities Act;
- E. Water wastewater, electrical services, and all other utilities provided to the remainder of the subdivision shall be provided to the park as part of standard subdivision improvements;
- F. LED lighting along those portions of the required street frontage(s) as well as ample overhead or bollard LED lighting within and throughout the park to provide for a safe and secure environment;
- G. Wireless network infrastructure;
- H. Removing all trash, dead trees and other unusable material; clearing and grading of site and installation of grass;
- I. Street trees shall be provided in the parkway abutting the park at intervals specified by the Parks and Recreation Director, City arborist, or contracted arborist. If the park does not abut street ROW on all sides, in addition to the street trees, shade trees shall be provided at a minimum of ten trees per one-fourth acre and tree species will be determined by the Parks and Recreation Director, City arborist, or contracted arborist;
- J. Permanently constructed restroom facilities built to city standards and the requirements of the American's with Disabilities Act (ADA). Restroom facilities are required for parks that are five

acres or larger in size;

- K. One playscape structure, concrete edging, and appropriate safety surfacing that meets industry requirements with a minimum capacity of 30 children, per industry standards. If a play structure already exists within a dedicated park within one-fourth mile, other comparable amenities may be provided such as basketball courts, outdoor exercise stations or splash pads;
- L. Accessible covered picnic table, grill, and trash container at a rate of one per five acres on concrete pads, but no less than one per park; and,
- M. Drinking fountain at a rate of one per five acres, but no less than one per park; and,
- N. Park benches at a rate of one per two acres of greenspace, but no less than two per park.

Disposing of construction materials within the park by the owner or developer's contractors, subcontractors, employees or agents at any time while the subdivision is being built. If materials are deposited or disposed of within the park, the owner or developer will be required to remove these materials within 72 hours of written notice by the City.

Marking each corner of the park land to be dedicated with a permanent monument consisting of three-fourths-inch iron pins set in concrete. These shall be located and identified on a recordable land survey completed by a land surveyor registered in the state and provided to the City by the owner or developer.